



# Charities Act 1992

## 1992 CHAPTER 41

### PART I

#### CHARITIES

##### *Miscellaneous and supplementary*

**47 Minor and consequential amendments of 1960 Act**

The 1960 Act shall have effect subject to the amendments specified in Schedule 3 to this Act (which are either minor amendments or amendments consequential on the preceding provisions of this Part of this Act).

**48 Amendment of Charitable Trustees Incorporation Act 1872**

The Charitable Trustees Incorporation Act 1872 shall have effect subject to the amendments specified in Schedule 4 to this Act.

**49 Amendment of Redundant Churches and Other Religious Buildings Act 1969**

The Redundant Churches and Other Religious Buildings Act 1969 shall have effect subject to the amendments specified in Schedule 5 to this Act.

**50 Contributions towards maintenance etc. of almshouses**

(1) Any provision in the trusts of an almshouse charity which relates to the payment by persons resident in the charity's almshouses of contributions towards the cost of maintaining those almshouses and essential services in them shall cease to have effect if and to the extent that it provides for the amount, or the maximum amount, of such contributions to be a sum specified, approved or authorised by the Commissioners.

(2) In subsection (1)—

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“almshouse” means any premises maintained as an almshouse, whether they are called an almshouse or not; and

“almshouse charity” means a charity which is authorised under its trusts to maintain almshouses.

## **51 Fees and other amounts payable to Commissioners**

- (1) The Secretary of State may by regulations require the payment to the Commissioners of such fees as may be prescribed in respect of—
  - (a) the discharge by the Commissioners of such functions under the enactments relating to charities as may be prescribed;
  - (b) the inspection of the register of charities or of other material kept by them under those enactments, or the furnishing of copies of or extracts from documents so kept.
- (2) Regulations under this section may—
  - (a) confer, or provide for the conferring of, exemptions from liability to pay a prescribed fee;
  - (b) provide for the remission or refunding of a prescribed fee (in whole or in part) in prescribed circumstances.
- (3) A statutory instrument containing any regulations under this section which require the payment of a fee in respect of any matter for which no fee was previously payable shall not be made unless a draft of the regulations has been laid before and approved by a resolution of each House of Parliament.
- (4) The Commissioners may impose charges of such amounts as they consider reasonable in respect of the supply of any publications produced by them.
- (5) Any fees and other payments received by the Commissioners by virtue of this section shall be paid into the Consolidated Fund.
- (6) In this section “prescribed” means prescribed by regulations under this section.

## **52 Disclosure of information to and by Commissioners**

- (1) Subject to subsection (2) and to any express restriction imposed by or under any other enactment, a body or person to whom this section applies may disclose to the Charity Commissioners any information received by that body or person under or for the purposes of any enactment, where the disclosure is made by the body or person for the purpose of enabling or assisting the Commissioners to discharge any of their functions.
- (2) Subsection (1) shall not have effect in relation to the Commissioners of Customs and Excise or the Commissioners of Inland Revenue; but either of those bodies of Commissioners (“the relevant body”) may disclose to the Charity Commissioners the following information, namely—
  - (a) the name and address of any institution which has for any purpose been treated by the relevant body as established for charitable purposes;
  - (b) information as to the purposes of an institution and the trusts under which it is established or regulated, where the disclosure is made by the relevant body in order to give or obtain assistance in determining whether the institution ought for any purpose to be treated as established for charitable purposes; and

- (c) information with respect to an institution which has for any purpose been treated as so established but which appears to the relevant body—
    - (i) to be, or to have been, carrying on activities which are not charitable, or
    - (ii) to be, or to have been, applying any of its funds for purposes which are not charitable.
- (3) In subsection (2) any reference to an institution shall, in relation to the Commissioners of Inland Revenue, be construed as a reference to an institution in England and Wales.
- (4) Subject to subsection (5), the Charity Commissioners may disclose to a body or person to whom this section applies any information received by them under or for the purposes of any enactment, where the disclosure is made by the Commissioners—
  - (a) for any purpose connected with the discharge of their functions, and
  - (b) for the purpose of enabling or assisting that body or person to discharge any of its or his functions.
- (5) Where any information disclosed to the Charity Commissioners under subsection (1) or (2) is so disclosed subject to any express restriction on the disclosure of the information by the Commissioners, the Commissioners' power of disclosure under subsection (4) shall, in relation to the information, be exercisable by them subject to any such restriction.
- (6) This section applies to the following bodies and persons—
  - (a) any government department (including a Northern Ireland department);
  - (b) any local authority;
  - (c) any constable; and
  - (d) any other body or person discharging functions of a public nature (including a body or person discharging regulatory functions in relation to any description of activities).
- (7) In subsection (6)(d) the reference to any such body or person as is there mentioned shall, in relation to a disclosure by the Charity Commissioners under subsection (4), be construed as including a reference to any such body or person in a country or territory outside the United Kingdom.
- (8) Nothing in this section shall be construed as affecting any power of disclosure exercisable apart from this section.
- (9) In this section “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978).

## 53 Data protection

An order under section 30 of the Data Protection Act 1984 (exemption from subject access provisions of data held for the purpose of discharging designated functions in connection with the regulation of financial services etc.) may designate for the purposes of that section, as if they were functions conferred by or under such an enactment as is there mentioned, any functions of the Commissioners appearing to the Secretary of State to be—

- (a) connected with the protection of charities against misconduct or mismanagement (whether by trustees or other persons) in their administration; or

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- (b) connected with the protection of the property of charities from loss or misapplication or with the recovery of such property.

#### **54 Supply of false or misleading information to Commissioners, etc**

- (1) Any person who knowingly or recklessly provides the Commissioners with information which is false or misleading in a material particular shall be guilty of an offence if the information—
  - (a) is provided in purported compliance with a requirement imposed by or under a relevant enactment; or
  - (b) is provided otherwise than as mentioned in paragraph (a) but in circumstances in which the person providing the information intends, or could reasonably be expected to know, that it would be used by the Commissioners for the purpose of discharging their functions under a relevant enactment.
- (2) Any person who wilfully alters, suppresses, conceals or destroys any document which he is or is liable to be required, by or under a relevant enactment, to produce to the Commissioners shall be guilty of an offence.
- (3) Any person guilty of an offence under this section shall be liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or both.
- (4) In this section—
  - (a) “relevant enactment” means this Act, the 1960 Act or the Charitable Trustees Incorporation Act 1872; and
  - (b) references to the Commissioners include references to any person conducting an inquiry under section 6 of the 1960 Act (general power to institute inquiries).

#### **55 Restriction on institution of proceedings for certain offences**

- (1) No proceedings for an offence to which this section applies shall be instituted except by or with the consent of the Director of Public Prosecutions.
- (2) This section applies to any offence under—
  - (a) section 3 above;
  - (b) section 20(10) of the 1960 Act, as amended by section 8 above;
  - (c) section 27 above;
  - (d) section 46(1) above; or
  - (e) section 54 above.

#### **56 Enforcement of requirements by order of Commissioners, and other provisions as to orders made by them**

- (1) If a person fails to comply with any requirement imposed by or under—
  - (a) this Part of this Act,
  - (b) the 1960 Act, or
  - (c) the 1872 Act,

then (subject to subsection (2)) the Commissioners may by order give him such directions as they consider appropriate for securing that the default is made good.

- (2) Subsection (1) does not apply to any such requirement if—
- (a) a person who fails to comply with, or is persistently in default in relation to, the requirement is liable to any criminal penalty; or
  - (b) the requirement is imposed—
    - (i) by an order of the Commissioners to which section 41 of the 1960 Act (enforcement of orders as for contempt of High Court) applies (whether by virtue of subsection (3) below or otherwise), or
    - (ii) by a direction of the Commissioners to which that section applies by virtue of section 57(2) below.
- (3) Section 41 of the 1960 Act applies to any order made by the Commissioners under subsection (1) above or under any of the following provisions, namely—
- (a) section 12 above,
  - (b) section 22(2) above,
  - (c) section 46 above, and
  - (d) section 12A of the 1872 Act,
- as that section applies to any such order of the Commissioners as is mentioned in that section.
- (4) Subject to subsection (5) below, section 40 of the 1960 Act (miscellaneous provisions as to orders of Commissioners) shall apply to any order made by the Commissioners under this Act or the 1872 Act as it applies to any order made by them under the 1960 Act (the second reference to that Act in subsection (3) of that section being read as a reference to this Act or the 1872 Act, as the case may require).
- (5) Subsection (3) of that section does not apply by virtue of subsection (4) above to any order made by the Commissioners under section 72 below or under section 12A of the 1872 Act.
- (6) In this section “the 1872 Act” means the Charitable Trustees Incorporation Act 1872.

## **57 Directions of the Commissioners**

- (1) Any direction given by the Commissioners under any provision contained in this Part of this Act or in the 1960 Act—
- (a) may be varied or revoked by a further direction given under that provision; and
  - (b) shall be given in writing.
- (2) In the 1960 Act—
- (a) subsections (1), (2) and (4) of section 40 (miscellaneous provisions as to orders of Commissioners) shall apply to any such direction as they apply to an order made by the Commissioners under that Act; and
  - (b) section 41 (enforcement of orders as for contempt of High Court) shall apply to any such direction as it applies to any such order of the Commissioners as is mentioned in that section.
- (3) In subsection (1) the reference to the Commissioners includes, in relation to a direction under section 6(3) of the 1960 Act (general power to institute inquiries), a reference to any person conducting an inquiry under that section.

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- (4) Nothing in this section shall be read as applying to any directions contained in an order made by the Commissioners under section 56(1) above.